

Chairperson John R. Clark
Vice-Chairperson Michael Parks
Parliamentarian Don Maxwell



Commissioners
Michael Beckendorf
John Bond
Helen Chavarria
Ralph Davila
Robert Horton
G.H. Jones

MINUTES

**BRYAN PLANNING AND ZONING COMMISSION
REGULAR MEETING
THURSDAY, JUNE 4, 2009
AT 6:00 P.M.
COUNCIL CHAMBERS, BRYAN MUNICIPAL BUILDING
300 SOUTH TEXAS AVENUE, BRYAN, TEXAS**

Disclaimer: *The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

1. CALL TO ORDER.

Chairperson Clark called the regular meeting to order at 6:00 p.m.

Commissioners	Present	2009 Regular Meetings Held	2009 Regular Meetings Attended	Regular Meetings Held During Last 6 Months	Regular Meetings Attended During Last 6 Months
Michael Beckendorf	Yes	9	9	9	9
Johnny Bond	Yes	9	9	9	9
Helen Chavarria	Yes	9	9	9	9
John R. Clark	Yes	9	9	9	9
Ralph Davila	Yes	9	9	9	9
Robert Horton	Yes	9	7	9	7
G. H. Jones	Yes	9	9	9	9
Don Maxwell	No	9	8	9	8
Michael Parks	No	9	6	9	6

Staff members present: Mr. Kevin Russell, Director of Development Services; Mr. Paul Kaspar, City Engineer; Mr. Martin Zimmermann, Planning Administrator; Mr. Randy Haynes, Staff Planner; Ms. Angela DeLuca, Assistant City Attorney; and Mr. Brent Elliott, Planning Intern.

2. HEAR CITIZENS.

No one came forward.

3. RECOGNITION OF AFFIDAVITS FILED IN RESPONSE TO STATE LAW ON DISCLOSURE OF LOCAL OFFICIAL'S CONFLICT OF INTEREST.

No affidavits were filed.

4. CONSENT AGENDA.

A. Approval of meeting minutes from the workshop and regular meetings on May 21, 2009.

B. Master Preliminary Plan MP09-01: Progress Park

R. Haynes

A proposed Master Preliminary Plan of Progress Park Subdivision, being 31.82 acres of land out of Stephen F. Austin League No. 10, A-63 adjoining the northbound frontage road of North Earl Rudder Freeway (State Highway 6) between Colson and Tabor Roads in Bryan, Brazos County, Texas.

C. Final Plat FP09-02: C-Hall Addition

M. Zimmermann

A proposed Final Plat of C-Hall Commercial Subdivision, being 6.17 acres of land out of John Austin League, A-2 adjoining the south side of Boonville Road between Wildflower and Briarcrest Drives in Bryan, Brazos County, Texas.

Commissioner Davila moved to remove item 4.B. from the Consent Agenda. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

Commissioner Beckendorf moved to approve items 4.A. and 4.C. on the Consent Agenda. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion.

There was none.

The motion passed with a unanimous vote.

Chairperson Clark opened discussion on Consent Agenda item 4.B.

Mr. Randy Haynes, Staff Planner, came forward to answer questions from the Commission.

Responding to a question from Commissioner Davila, Mr. Haynes stated the Commission has seen a request for rezoning on the same property in the past. He stated any items that have been removed from the consent agenda would not require a public hearing for approval. Mr. Haynes reminded the Commission that the item in question is a master preliminary plan. Typically, the Planning and Zoning Commission will not see the preliminary plan; however, in this case, the developer was allowed to combine the master and preliminary plan in to one document.

Commissioner Davila read Section 110-29 (Master Plan) item B, from the City of Bryan's Subdivision Ordinance which states the elements required from a master plan. While the applicant has stated the current zoning for the property, the applicant has did not state the proposed zoning which is required of a master plan, according to Commissioner Davila's interpretation of the ordinance.

Mr. Haynes stated if the applicant is to propose zoning any different than currently what the property is currently zoned, then the applicant would be required to be list the zoning change. Staff feels the applicant is not proposing a zoning change. Therefore, the preliminary master plan is a valid document, as is.

Responding to a question from Chairperson Clark, Mr. Haynes stated a property can be subdivided however the property owner wishes, as long as the requirements of the subdivision ordinance and the state's platting rules are followed.

Responding to a question from Commissioner Davila, Mr. Haynes reminded the Commission that a master plan deals with the phasing of a subdivision. The document in question is considered a master plan because the applicant is proposing two phases.

Commissioner Davila stated a concern of his is that since there is not a public hearing on the issue, citizens who may have issues with the plan will not be able to express their opinions to the Commission.

Responding to a question from Commissioner Davila, Mr. Haynes stated the applicant would be required to submit an application for re-zoning which would then require a public hearing for a zoning change from Agricultural-Open District (A-O).

Responding to a question from Commissioner Beckendorf, Mr. Haynes stated the item is considered an "automatic approval" item.

Mr. Beckendorf stated that he hopes this is not a "backdoor" process for the applicant to obtain the ruling he wishes.

Mr. Haynes stated the applicant will more than likely ask for a re-zoning which would require the Planning and Zoning Commission's vote as well as a public hearing.

Commissioner Bond moved to approve MP 09-01, proposed Master Preliminary Plan of Progress Park Subdivision. Commissioner Horton seconded the motion.

Commissioner Bond stated his reasoning for approving is that the applicant would have to return to the Commission in order to obtain the rights to a rezoning.

Commissioner Davila stated his interpretation of the Subdivision Ordinance is that the applicant should be required to state the proposed zoning on the proposed preliminary master plan because he feels the applicant will return to request a re-zoning.

Chairperson Clark stated that in the future, the applicant should be required to list any proposed zoning changes on the preliminary master plan.

The motion passed with a vote of six (5) in favor and two (2) in opposition. Commissioners Beckendorf and Davila cast the votes in opposition.

5. Street Closing SC09-01: Anderson Street

R. Haynes

A request to permanently abandon public right-of-way for Anderson Street consisting of a 50-foot wide and 116-foot long segment of public right-of-way for Anderson Street located northwest of the intersection of McCulloch Street and William Joel Bryan Parkway (FM 158) in Bryan, Brazos County, Texas.

Chairperson Clark stated one staff report will be read for Items 5, 6, and 7.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends approving the proposed street closing, subject to the following conditions:

- Approval of a request to abandon a 260-foot long segment of public right-of-way of varying width adjoining the south side of Sandy Point Road between San Jacinto Lane (West State Highway 21) and McCulloch Street, as it has been requested with case no. SC09-05; and
- Approval of a proposal to replat 1.26 acres of land located north of the intersection of West William Joel Bryan Parkway (F.M. 158) and McCulloch Street in Bryan, Brazos County, Texas, as it has been requested with case no. RP09-06.

Responding to a question from Commissioner Davila, Mr. Haynes stated streets that do not have curb and gutters are not required to have a sidewalk built due to a replat.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Beckendorf moved to recommend approval of Rezoning SC09-01 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

6. Street Closing SC09-05: Sandy Point Road

R. Haynes

A request to abandon a portion of public right-of-way for Sandy Point Road consisting of a 260-foot long segment of public right-of-way of varying width adjoining the south side of Sandy Point Road between San Jacinto Lane (West State Highway 21) and McCulloch Street in Bryan, Brazos County, Texas.

Commissioner Beckendorf moved to recommend approval of Rezoning SC09-05 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

7. Replat RP09-06: Boone's Addition

R. Haynes

A proposed Replat in Boone's Addition, being 1.26 acres of land located north of the intersection of West William Joel Bryan Parkway (F.M. 158) and McCulloch Street in Bryan, Brazos County, Texas.

Commissioner Beckendorf moved to recommend approval of Rezoning RP09-06 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

8. Conditional Use Permit CU09-06: The Windsor Group, Inc.

R. Haynes

A request for approval of a Conditional Use Permit to allow a multifamily use on property in a Commercial (C-3) zoning district, specifically on 2.826 acres of vacant land located on the south side of East 29th Street between Hollowhill Drive and Garden Lane in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Mr. Haynes stated the property is undeveloped land and zoned Commercial (C-3) which is the most "intense" commercial zoning use. The potential buyer of the property is considering a multi-family residential development combined with the possibility of retail or office use towards 29th Street. Multi-family uses are permitted by conditional use in a C-3 commercial district. The applicant has stated, in his site plan, that the maximum density will be 25 units per acre, which is the most allowed by a multi-family zoning district. Additionally, the applicant stated that height will be limited by the Multi Family Ordinance. The applicant will be required to complete a site review as well as the platting process before any development is to occur. Staff recommends approval of the request subject to the following conditions:

- The site plan fulfills all the technical requirements for development of an apartment complex on the subject property, and
- the apartment development shall generally conform to standards and limitations that generally apply to properties zoned Multiple-Family District (MF).

Responding to a question from Commissioner Beckendorf, Mr. Haynes stated because the property is zoned Commercial (C-3), and there are numerous uses which would be allowed on the property, by right. Behind the property in question, there is an undeveloped tract zoned Residential District 7000 (RD-7), and a neighborhood beyond this tract. While the adjacent Residential District 7000 (RD-7) tract could be developed, there are no current plans to do so. In the rear 75 feet of the property, the

applicant is not proposing any construction. Therefore, the developer is placing a 75 foot buffer at the rear of the property as well as the adjacent undeveloped property.

Responding to a question from Commissioner Davila, Mr. Haynes stated Commercial (C-3) requires a 75 foot buffer before abutting residential zoned property. This can be reduced to 45 feet by including intense landscaping.

Responding to a question from Commissioner Davila, Mr. Haynes stated if the applicant were to make any changes to the conceptual site plan, with regard to the location of any commercial development on the property, the applicant would have to return to the Commission to obtain approval. Since the property is still zoned Commercial (C-3), the property owner could develop the property with any development allowed within that zoning classification. However, the property owner would be required to fulfill all site development requirements of the zoning classification including the buffer set-back.

Mr. Haynes stated the conditional use must be implemented within a year. If nothing happens within that year, then the approval of the conditional use permit expires.

Responding to a question from Commissioner Beckendorf, Mr. Haynes stated the applicant is the perspective buyer. The seller does not want to lose the rights to Commercial (C-3) zoning before selling the property.

Responding to a question from Commissioner Beckendorf, Mr. Haynes stated the property owners within 200 feet of the property in question have been notified of the public hearing. He feels that the beliefs of the surrounding property owners is that since the multi-family use is less intense than what could be developed on the property, the request is reasonable.

The public hearing was opened.

Gary Brown, representing the Windsor Group, came forward to speak in favor of the request. Mr. Brown wishes to build apartments and possibly a small coffee shop at the front of the property. The plan is to construct corporate workforce houses which are fully furnished at intended for use by visiting professors, graduate students, and workforce housing. Mr. Brown presented a series of photos representing what the proposed development could resemble.

The public hearing was closed.

Responding to a question from Commissioner Beckendorf, Mr. Haynes stated if the Commission were to approve the applicant's request, the next step would be for the applicant to submit a final plat, which is not subject to a public hearing. The next step for the applicant would be the site development review process. At no future time will neighboring land owners be notified regarding this property in the current development process.

Mr. Haynes stated that all property owners within 200 feet were notified of the public hearing.

Responding to a question from Commissioner Davila, Mr. Haynes stated that the 200 foot notification area is from property line to property line.

Commissioner Chavarria moved to recommend approval of Rezoning SC09-05 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion.

Commissioner Beckendorf stated he is pro development and feels that the development is a positive gain for the Bryan. His hope is that the developer works with the people that live in the neighborhood behind the property.

Chairperson Clark feels multi-family will be a less intensive use than what could be developed under the current commercial (C-3) zoning classification. Additionally, Chairperson Clark feels the public is protected because of the presence of a natural buffer as well as a statutory buffer.

The motion passed with a unanimous vote.

- 9. Annexation ANNEX09-01: Carter-Arden Development, LLC et. al. M. Zimmermann**
A request for annexation of 179.59 acres of vacant land out of John Austin League, Abstract No. 2 located approximately 777 feet northwest of F.M. 1179 between F.M. 158 (Boonville Road) and Riverstone Drive in Brazos County, Texas.

Mr. Zimmermann presented a staff report (on file in the Development Services Department). Staff recommends approving annexation.

Responding to a question from Commissioner Davila, Mr. Zimmermann stated that for any annexation, state law requires the ordinance, which completes annexation, to include a service plan detailing how municipal services will be extended to the property. In the case of this property, there will be no additional services needed that are not already available on the property.

The public hearing was opened.

Steve Arden, 311 Cecilia Loop College Station, came forward to speak in favor of the request.

The public hearing was closed.

Commissioner Davila moved to recommend approving the requested annexation, accepting the findings of staff. Commissioner Jones seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

- 10. Rezoning RZ09-11: Carter-Arden Development, LLC et. al. M. Zimmermann**
A request to change the zoning classification from Agricultural-Open District (A-O) on land currently within the City limits and to establish zoning on property currently under consideration for owner-requested annexation, to a Planned Development – Mixed Use District (PD-M) on 215.32 acres of

land out of John Austin League, Abstract No. 2 adjoining the north side of F.M. 1179 between F.M. 158 (Boonville Road) and Riverstone Drive in Bryan, Brazos County, Texas.

Mr. Zimmermann presented a staff report (on file in the Development Services Department). Staff recommends approval of the request based on the following findings:

- The proposed arrangement of land uses at this location will promote orderly urban growth in this part of Bryan, and will not make land classified for similar development in the vicinity and elsewhere in the City unavailable for development,
- Staff contends that retail developments are developing at a moderate pace in this vicinity and elsewhere in the City.
- The proposed combination of single-family homes and commercial establishments at this location will create an orderly zoning pattern and allow for a useful and orderly urban development of this property.
- The proposed layout of road and pedestrian walkways can reasonably be expected to provide for adequate and safe traffic circulation.

Mr. Zimmermann stated that the 30 acres at the intersection of 1179 and the proposed street known as Thornberry Drive, is to be reserved for retail development. The developer has highlighted uses which they would not like to include under current zoning designations such as commercial parking lots, boat repair sales/rental, nightclubs, moving companies, trailer and truck sales rental, etc. The remaining majority of the property is proposed to be developed for single family residential use. There are common areas that will be maintained by a homeowners association and approximately 16 acres of proposed city park land. In certain development phases, the developer wishes to allow for zero-lot line developments or single family homes, depending on what the market allows for at that time. The side walk plan asks for the development to be allowed to extend four foot wide sidewalks on one side of the street on local streets and eight foot (minimum) sidewalks on one side of the street on common streets such as Thornberry Drive. The developer has also asked that the requirement to build a screening fence as a buffer area between commercial (C-2) zoning and residential be waived. Due to the presence of a thick strip of trees measuring at least 50 feet in width, staff feels this will be enough of a buffer.

Responding to a question from Commissioner Davila, Mr. Zimmermann stated the trail system will be concrete walk-ways throughout the development and in common areas.

Mr. Zimmermann stated the standards used in the residential portion are the standards used in residential district (RD-7) zoning classification with a few modifications.

Responding to a question from Chairperson Clark, Mr. Paul Kaspar, City Engineer, stated that standard design guideline for a sidewalk calls for a 5 foot sidewalk 3 feet off of back of curb.

The public hearing was opened.

Steve Arden, 311 Cecilia Loop College Station and part owner of proposed subdivision, came forward to speak in favor of the request. Mr. Arden gave a presentation discussing the proposed development.

Responding to a question from Commissioner Bond, Mr. Arden stated the minimum size on the proposed development's townhomes will be 2,000 square feet.

Responding to a question from Commissioner Jones, Mr. Arden believes the price range will be between \$220,000 and \$350,000.

Chairperson Clark wishes homes could be built at a size of less than 2,000 square feet. However, he understands that the developer is contractually obligated by the City not to.

Responding to a question from Chairperson Clark, Mr. Arden stated the sidewalks will extend to 1179 when the area is platted. Additionally, the intersection of Thornberry and 1179 will contain turn lanes but may be too dangerous for pedestrians.

Responding to a question from Commissioner Davila, Mr. Arden stated one of the reasons there will not be walkways on both sides of the streets on some portions is because the expectation is to bring a pedestrian way through the wooded areas of the development. Additionally, because of the layout of street lights on the walkways, it would not be possible to provide lighting on both sides of the streets.

Responding to a question from Commissioner Davila, Mr. Arden stated he will involve the homeowners association from an early stage in development in terms maintenance of the common areas.

Bryan Williamson, 7171 Oak Forest Drive, came forward to speak against the request. His concern was with regard to any fencing that would be placed between phases 4 and 5 which abut portions of Oak Forest Drive, the neighborhood adjacent to the development in question.

Mr. Zimmermann stated if the commercial property adjacent to the homes on Oak Forest Drive were to develop, there would be a 50 foot buffer zone followed by a 6 foot screening fence of masonry or wood. The residential portion which abuts the adjacent homes on Oak Forest Drive would not require a fence. Any fence construction in this location would be constructed through neighbor agreement.

The public hearing was closed.

Commissioner Bond moved to recommend approval of Rezoning RZ 09-09 to the Bryan City Council and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Beckendorf seconded the motion.

Commissioner Bond commended the developer on the phasing of the development. He wishes that some of the homes could the size reduced to 1600 or 1700 square feet. Commissioner Bond feels that this type of growth is correct for this area and hopes to see similar developments in Bryan.

Commissioner Beckendorf agreed with Commissioner Bond.

Commissioner Davila agreed with Commissioners Bond and Beckendorf but does have concerns with the lack of sidewalks on both sides of the street in some portions.

Chairperson Clark spoke to the public concerns stating the buffer zone and fence is all that can be expected in accordance with the City code. Chairperson Clark would be opposed to sidewalks being on one side but does not expect the flow of pedestrians will extend beyond 1179. He does not want to set a precedent for the Commission on granting sidewalk exceptions. He feels that in this case, an exception is justified.

The motion passed with a unanimous vote.

11. Rezoning RZ09-09: Jose D. Urbano and Monica Moncivias

R. Haynes

A request to change the zoning classification from Residential District (RD-5) to Agricultural-Open District (A-O) on 2.63 acres of land located northeast of the intersection of West 28th and Wallace Streets, being Lot 7 in Block 1 of the Wallace Corner Subdivision in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends denial of the request based on the following findings:

- Rezoning this property to A-O District would not be in accordance with the intent of the Zoning Ordinance and changing the zoning of this tract to A-O District could have a negative effect on development potential and/or marketability of other property in this area.

Mr. Haynes stated the owners bought the lot recently and have built a stable to house horses. The owners plan to build a house on the property at some point in the future. However, this is not permitted by zoning because the primary use of a residential dwelling was not established first.

Responding to a question from Chairperson Clark, Mr. Haynes stated the horses would be allowed on the property under residential (R-5) zoning if there were 50 feet between the confined area for the horses and the foundation of the house and if the primary use of a residence was located on the property initially.

Responding to a question from Commissioner Davila, Mr. Haynes stated if the rezoning request was to pass; the applicant would be able to have multiple stables, a veterinarian clinic with open runs, and commercial stables which would be inappropriate for the surrounding community.

Responding to a question from Commissioner Davila, Mr. Haynes stated he was not sure if the homeowner would be allowed to keep the stable if the promise was made to construct a home in the next year.

Chairperson Clark stated the issue is a current violation of zoning.

Mr. Haynes stated there is no buffering zone required between A-O and residential zoning meaning there could be storage up to the property line.

The public hearing was opened.

Carolyn Stufft, 403 Wallace Street, came forward to speak against the request.

The public hearing was closed.

Commissioner Davila moved to recommend denial of Rezoning RZ09-09 and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Chavarria seconded the motion.

Commissioner Beckendorf stated he is glad code enforcement looked into the property.

Chairperson Clark stated horses that are confined to small areas kill trees which would be detrimental to the area.

The motion passed with a unanimous vote.

12. Rezoning RZ09-10: Bobby and Caryl Merchant

R. Haynes

A request to change the zoning classification from Residential District - 5000 (RD-5) to Mixed Use Residential District (MU-1) on 1.02 acres of land located at 3609 Nancy Street between Shirley Drive and Rabbit Lane, being Lots 14 and 15 in Block 3 of Woodville Acres Subdivision – Phase 3 in Bryan, Brazos County, Texas.

Mr. Haynes presented a staff report (on file in the Development Services Department). Staff recommends denial of the request based on the following findings:

- Rezoning the subject property to MU-1 is appropriate in this particular environment and consistent with the land use recommendations and policies articulated in Bryan's Comprehensive Plan and changing the zoning designation on the subject property to MU-1 is not expected to measurably impact any public improvements.
- Residential development utilizing manufactured housing has been stagnant in recent years but interest in this housing type is increasing at a modest pace in this vicinity and elsewhere in the city and approval of the proposed zone change would have no effect on other areas designated for similar development.
- MU-1 zoning at this location will have no adverse effects on nearby properties, many of which are also zoned MU-1 District.

Mr. Haynes stated there have been 5 similar requests in the past for properties in the same area. The only one which failed to pass was in 2007 because it would greatly increase density.

The public hearing was opened.

No one came forward.

The public hearing was closed.

Commissioner Jones moved to recommend approval of Rezoning RZ09-10 and to adopt the written staff report and analysis, as the report, findings and evaluation of this Commission. Commissioner Beckendorf seconded the motion.

Chairperson Clark asked if there was any discussion. There was none.

The motion passed with a unanimous vote.

13. ADJOURN.

Without objection, Chairperson Clark adjourned the meeting at 7:51 p.m.

These minutes were reviewed and approved by the City of Bryan Planning & Zoning Commission on the **18th** day of **June, 2009**.

John R. Clark, Chairperson
Planning and Zoning Commission
City of Bryan, Texas

Martin Zimmermann, Planning Administrator
and Secretary to the Planning and Zoning
Commission